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January 12, 2001

**VIA ELECTRONIC FILING**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW- TW – A235  
Washington, DC 20554

Re: CC Docket No. 00-229, 2000 Biennial Regulatory Review –  
Telecommunications Service Quality Reporting Requirements

Dear Ms. Salas:

Attached are the Associations for Local Telecommunications Services comments in response to the Commission's Notice of Proposed Rulemaking November 9, 2000.

Sincerely,

/s/

Kimberly M. Kirby  
Association for Local Telecommunications Services

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**In the Matter of**

**2000 Biennial Regulatory Review --  
Telecommunications Service Quality  
Reporting Requirements**

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**CC Docket No. 00-229**

**COMMENTS OF THE ASSOCIATION FOR LOCAL  
TELECOMMUNICATIONS SERVICES**

The Association For Local Telecommunications Services (“ALTS”) submits these comments in response to the FCC’s November 9, 2000 Notice of Proposed Rulemaking (“NPRM”). In its NPRM, the Commission seeks to streamline and reform its existing service quality monitoring program by reducing reporting requirements for price cap, or incumbent, Local Exchange Carriers (“ILECs”) required to file Automated Reporting Management Information System (“ARMIS”) 43-05 and 43-06 reports from over thirty categories of information to six.<sup>1</sup> In addition, the Commission seeks comment on whether small incumbent LECs, including those serving rural areas, and competitive local exchange carriers (“CLECs”), should be required to file the newly proposed streamlined service quality reports.<sup>2</sup> Although ALTS believes that the reporting requirements should not apply to small rural LECs, ALTS’ remarks are limited to issues facing CLECs.

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<sup>1</sup> 2000 Biennial Regulatory Review – Telecommunications Service Quality Reporting Requirements, CC Docket No. 00-229, *Notice of Proposed Rulemaking*, FCC 00-399 (rel. Nov. 9, 2000) (NPRM), at ¶ 2.

<sup>2</sup> *Id.* at ¶ 29.

## SUMMARY

As the leading national trade association representing facilities-based CLECs, ALTS urges the Commission not to place the additional, and unnecessary, burden of imposing service quality reporting on any entity other than the mandatory price cap LECs currently required to file ARMIS 43-05 and 43-06 reports. In addition, ALTS believes that while streamlining regulations is a necessary and natural response to a competitive marketplace, deregulation is premature when competition in the telecommunications market is still at a nascent stage of development. Streamlining regulations do not lead to a more competitive market but rather should be a response to a market that has already moved toward competition. Lifting certain regulatory requirements should be endorsed only to the extent of the proven level of competition.

While ALTS encourages the Commission to move to a more deregulatory approach to reporting requirements, it is too soon to lift the reporting requirements that allow regulators to assess the marketplace. Instead the Commission should be taking a more careful look at the data reported for both the wholesale and retail markets and implement measures to help spur the market to competition.

The Commission states that the main objective in the NPRM is to give the consumer a more user-friendly tool that will enable potential customers to more wisely chose their local carrier.<sup>3</sup> The Commission proposes to pare down thirty categories to six as a viable alternative to better serve consumers. ALTS agrees with the Commission that a simple form is very useful for customers and encourages the Commission to implement this reporting structure *in addition to* maintaining the current reporting requirements for

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<sup>3</sup> *Id.* at ¶ 1.

ILECs. The existing reporting structure is a necessary tool for the Commission, state regulators and competitive carriers, to gather data essential to gauge competition and the state of service quality in the industry. The Commission should make the more user-friendly form available for end-users. Surely if the ILEC is already reporting on the 30 categories and sub-categories it is very easy to summarize it into a one page user-friendly chart.

ALTS sees no need, however, for the ILECs to discontinue reporting data vital to the industry. The Commissions actions in this proceeding could also be setting a dangerous precedent in other issue-related proceedings. For example, in future section 271 applications, ILECs may argue that they are no longer required to report sub-metrics vital to OSS performance and anti-backsliding measures.

Finally, no regulatory or public interest need has been shown to require CLECs to gather and report the kinds of information that the Commission has proposed. The information could be very misleading as the CLECs remain dependent upon the ILECs with whom they compete for many of the inputs to their services. In addition, adoption of new reporting requirements could act as a barrier to entry for new competitors. As the Commission knows less than a year ago, it adopted new reporting requirements for CLECs in the form of the Local Competition and Broadband Report. Any service quality reports would simply add another layer of regulatory burden on CLECs without any benefit to the Commission or the public.

#### **I. STREAMLINING REPORTING REQUIREMENTS IS PREMATURE**

The Commission stated in the NPRM that the purpose of the Telecommunications Act of 1934, as amended, is to promote competition and reduce regulation in order to

secure lower prices and higher service quality for consumers.<sup>4</sup> The NPRM also maintains that the purpose of this proceeding is to reform the existing service quality monitoring program to further that Congressional mandate.<sup>5</sup> ALTS encourages the Commission to move to that end -- streamlining regulations -- but not until the Commission is confident that both the competitors and the end user customers will be best served by the deregulatory scheme. In other words, not until the Commission is confident that the market is fully competitive should the Commission seek to deregulate the ILECs. The ILECs still control over 90% of the local market yet the Commission seeks to decrease reporting requirements by over 80%.

Given the current state of competition and overwhelming evidence of poor ILEC service quality throughout the nation, ALTS urges the Commission to focus its resources on scrutinizing existing ARMIS data more carefully rather than engaging in efforts to lift ILEC reporting burdens. The Commission's NPRM states that if consumers had access to service quality data from all carriers providing local exchange service in their area, they would be in a better position to make an informed choice between carriers.<sup>6</sup> Yet this premise is only valid if CLECs continue to have the opportunity--and proper regulatory safeguards in place— to compete as new entrants in the marketplace.

Furthermore, the Commission's NPRM fails to offer any analysis on whether the initial objective of reporting requirements for price cap LECs has indeed been the appropriate policing method to ensure good service quality. Instead, the Commission concludes by assumption, rather than tangible evidence, that the reporting requirements

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at ¶ 29.

have led to better service quality. In fact, the Commission's own evidence seems to point to a degradation of service quality.<sup>7</sup> Moreover, certain service quality reports imposed after the 1996 Act demonstrate that in a more competitive environment, service quality at both the wholesale and retail level, continues to worsen.<sup>8</sup> In addition, evidence presented at the state level demonstrates that the ILECs continue to offer poor service quality.<sup>9</sup> ALTS urges the Commission to take all of this evidence into consideration before taking any steps to streamline regulation. The Commission should focus on strengthening ILEC reporting requirements rather than gutting them.

The Commission has also failed to provide any data that the reporting requirements are no longer necessary and simply assumes that the market is moving toward competition and therefore regulations should be lifted. Absent any evidence that the market would benefit from restructuring the Commission's reporting requirements, or that the market has effective competition, ALTS urges the Commission to, at a minimum, maintain the current reporting structure for ILECs.

#### **A. Reporting Requirements Are Necessary for Wholesale and Retail Quality of Service.**

There are three main principles driving the NPRM: (1) the need for consumer access to decipherable data in order to enhance the ability of consumers to choose among

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<sup>7</sup> Current ARMIS data demonstrates consistent ILEC service degradation dating back to 1993; these data reveal that service degradation appears worse for ILEC wholesale customers (special access provided to IXC's) than ILEC end-user customers.

<sup>8</sup> See Bell Atlantic/NYNEX Merger Order.

<sup>9</sup> See e.g., September 29, 2000 Joint Statement of Chairpersons of the Illinois Commerce Commission, the Indiana Utility Regulatory Commission, the Michigan Public Service Commission, the Public Utilities Commission of Ohio, and the Public Service Commission of Wisconsin; Letter from Dorothy Attwood to James W. Calloway, Group President of SBC Services, October 6, 2000 (DA 00-2298); "Verizon's Backlog of Orders Adds to Growing Customer Dissatisfaction," Philadelphia Inquirer, October 5, 2000, documenting that, for example, in Pennsylvania, the number of PUC complaints from Verizon customers rose by 536 percent from 1996 to 1999.

competitive providers within a service area; (2) whether all carriers, including CLECs should be subject to the reporting requirements; and (3) whether the reporting structure should be streamlined. Retail quality of service reporting pertains to the end user customer-affecting problems. Wholesale quality of service pertains to the service that CLECs and IXC receive from the ILEC. Often the CLEC customer-affecting problems are attributable to the ILEC wholesale service and/or facility. Even where there is a dispute as to which entity is responsible for poor service for retail end users it is undisputed that the only way to monitor the problems is require continued ILEC reporting at the current levels.

The NPRM states that the monitoring program was adopted initially to ensure that mandatory price cap LECs maintain a high level of service quality and to allow for a full evaluation of the carriers under price cap regulation.<sup>10</sup> This is logical in that the only way the Commission can determine whether a price cap LEC is scaling back on resources supporting consumers (e.g., cutting back line technicians or customer service agents) is to monitor the quality of service offered to the end user. In 1991 the end user had no alternative for local service and therefore could not “switch” to another provider if dissatisfied. Thus this regulation was essentially the only tool the Commission could initiate to protect the consumer and until the arrival of effective competition. Even today, monitoring service quality reports continues to be the only way the Commission can ensure that the ILECs provide quality retail service.

On the other hand, if CLEC customers are dissatisfied with the service provided, these customers have the choice of switching back to the incumbent provider, or another

provider. The CLEC does not have the luxury of being the dominant provider in the market and therefore should not be subject to similar regulation. In fact, at a minimum, the CLEC has the greatest incentive to provide the best quality of service to its customers because a customer lost is money lost. Where the CLEC remains at a disadvantage, however, is where the ILEC has the opportunity to be the source of the service problems for a CLEC customer. In its NPRM, the Commission asserts, without factual support, that the change in the industry during the past ten years necessitates a change in the way ILECs are regulated. Even if true, the ILEC is the only entity that would benefit from the type of change proposed.

The NPRM also seeks comment on whether the data regarding the service quality that LECs provide to IXC's should be eliminated.<sup>11</sup> More specifically, Report 43-05 currently collects data from mandatory price cap LECs on the installation and repair of access services provided to IXC's as well as information on common trunk group blockage. The relevance of this reports to CLECs, is that the same ILEC provisioning operation and personnel that provide special access circuits to IXC's also provision CLEC special access circuit orders. Moreover special access circuit provisioning is typically not included in the performance measures and penalty provisions of many CLEC interconnection agreements, nor are those measures part of the FCC's 271 application review process. Thus if the Commission were to eliminate this report, it would have no way to audit ILEC performance in these areas.

The NPRM suggests that IXC's are able to monitor service quality through their business relationships with the ILECs and thus are on equal footing with respect to

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<sup>10</sup> NPRM at ¶8.



bargaining positions because IXC's purchase large volumes of communications services from ILEC's.<sup>12</sup> Assuming that is the case -- that IXC's have equal bargaining position with the ILEC's, and ALTS in no way validates that assumption -- the CLEC's are in a much different position in that CLEC's do not have the same customer relationship or market leverage that the IXC's enjoy. Thus although IXC's may be able to "self-monitor" due to a special business relationship, CLEC's do not enjoy the same position. The CLEC's ability to point to ILEC service degradation recorded in the existing wholesale IXC special access measures helps to strengthen CLEC complaints regarding the special access provisioning backlogs CLEC's currently experience. ALTS urges the Commission to continue with this reporting requirement.

Until the market is fully competitive, the ILEC must be required to report at the current levels so that end users, competitive carriers, regulators, and Congress for that matter, have the tools necessary to determine the service quality offered by ILEC's. The ILEC must also continue to report under the current structure to ensure that the ILEC provides quality wholesale service to its CLEC customers, so that the CLEC's, in turn, can offer quality retail service to the CLEC customers.

**a. The Airline Industry Is Not An Appropriate Comparison**

The Commission purports to follow the quality monitoring program for the airline industry as a potential model for ILEC reporting.<sup>13</sup> There are several flaws in this logic. First, the reporting structure in the airline industry is predominantly voluntary. Second, the airline industry is effectively competitive where telecommunications at the local level

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<sup>11</sup> *Id.* at ¶ 39.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at ¶ 13.

is not. ALTS looks forward to the day when consumers can look up local service providers in their area and choose between several companies all competing for that customer via service offerings, price, and a proven good mark on customer satisfaction. Unfortunately, in a majority of markets, customers cannot make those informed decisions for local service providers today because there are no alternatives.

On the other hand, when a customer is dissatisfied with a particular airline, that customer has the choice of choosing numerous other airlines. Even in remote areas, customers generally have some choice in airlines. If the area is so remote as to offer only one provider, the customer does not have the same expectation as one might have if flying to Chicago, or Los Angeles. In telecommunications at the local level, the customer typically does not have the same luxury in choosing his phone company.

Moreover, the airline industry uses its customer service information to promote its product and thus there is more incentive to voluntarily report customer satisfaction. A high rating gives airlines another marketing tool with which it can attract more customers. There is no similar incentive for ILECs because there are, in large part, few competitors from whom to steal customers. Thus, the Commission's use of the airline industry as an applicable model for reporting customer quality of service makes little sense.

#### **B. ILECs Should Report Quality Information on Advanced Services**

The current ARMIS reporting requirements only collect information about service quality for basic voice telephone service ("POTS"). The Commission seeks comment on whether it should gather information and report about service quality in the provision of

broadband and other advanced services.<sup>14</sup> ALTS urges the Commission to collect such data from the ILECs. Again, CLECs offering such service as xDSL-based service depend on the ILEC for CLEC customer installation.

The Commission needs to analyze data not only for consumer quality of service purposes, but also to see if the ILEC is gaining an unfair advantage in the marketplace. Further, reporting advanced services data is required in all on-going proceedings at the state level to adequately determine ILEC compliance with section 271 Operation Support Systems (“OSS”).<sup>15</sup> That same information gathered at the state level is used in determining compliance with federal section 271 applications. The Commission should require similar reporting in this proceeding.

### **C. Disaggregation of Information**

The ARMIS service quality data currently disaggregates information into Metropolitan Statistical Areas (“MSAs”) and Non-Metropolitan Statistical Areas (“Non-MSAs”). The ILEC national trade association, USTA, proposes that the Commission no longer require carriers to disaggregate information arguing that a review of data filed to date shows no significant variance for performance in MSAs and non-MSAs.<sup>16</sup> The Commission seeks comment on whether carriers should continue to file disaggregated data. ALTS believes they should. Disaggregation of information between MSAs and non-MSAs is still important to determine how the market is developing in urban versus rural areas. As the market continue to develops the Commission should monitor the quality of service in both areas again for customer-affecting purposes and to ensure that

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<sup>14</sup> *Id.* at ¶ 26.

<sup>15</sup> OSS testing is either on-going or soon to be considered in states in the SBC, BellSouth, Verizon, and Qwest regions.

<sup>16</sup> *NPRM* at ¶ 28.

ILECs are also providing adequate wholesale quality of service to its CLEC customer.

Eliminating aggregated information will lead to skewed results and the Commission should strive to use the most accurate data available in assessing customer service quality.

## **II. CLECS SHOULD NOT BE REQUIRED TO FILE SERVICE QUALITY REPORTS**

On November 11, 1998, the National Association of Utility and Regulatory Commissions (“NARUC”) filed a White Paper on the benefits of carriers filing service quality information.<sup>17</sup> The Commission seeks comment on whether CLECs, in addition to providers other than mandatory price cap LECs, should file such reports. ALTS maintains that it is premature to require CLECs to file such reports.

Although NARUC argues similar customer-affecting principles as the Commission proposes in this proceeding, ALTS believes that the reasoning is flawed in that the goal of the reporting structure is to ensure that customers have the necessary information to make an informed decision about choosing a local phone service provider. The reality is that customers do not have that choice because the local market has not developed sufficiently. As stated above, deregulating a monopoly does not *lead to* competition, but rather, deregulation is the natural and logical *response after* a competitive environment is firmly established. The local market is not competitive. And until it is, regulation is necessary. In fact, regulation is the only way to move a monopoly environment to a more competitive one.

To force CLECs, the companies striving to compete with the ILECs, to file reports on customer service quality data is burdensome and does not meet the goals set

forth by the Commission and NARUC.<sup>17</sup> Further, the NARUC White Paper was filed in November 1998. At that time regulators were still looking for the best ways to spur local competition and to answer to consumers seeking alternative providers. The industry, however, has changed in the past two years and regulators have become more savvy with respect to measuring the existing competitive problems.

Probably the most telling source of information that has come to light since 1998 is the importance of performance reporting, both at the wholesale and retail level. Prior to 1998 performance safeguards such as "Third Party OSS Test" were either non-existent or still being explored. Today, every state and federal regulator has come to understand the importance of service quality reports and the need to monitor performance both for the benefits of the end-user and as the only tool to gauge non-discriminatory treatment of ILECs towards CLECs.

If a CLEC offers poor quality of service the end-user is guaranteed an alternative. If the ILEC offers poor quality of service to the end-user, however, that end-user is typically left in the unenviable position of being stuck with only the regulators left to put pressure on the ILEC where no market pressure exists. Where the CLEC has every incentive to offer quality service to its customers, the ILEC has every incentive to ensure that the CLEC end-user service suffers by offering poor wholesale quality of service to the CLEC. Thus the argument that CLEC service reporting will be the primary catalyst for improved service quality is flawed because it ignores the market reality that CLECs must continue to depend, to great extent, on the wholesale provider – the ILEC.

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<sup>17</sup> *Id.* at ¶ 29.

<sup>18</sup> Requiring CLECs to file quality of service reports would be the same as requiring United Airlines to use Delta's baggage handlers, and then hold United accountable for lost luggage.

**A. Voluntary Service Quality Reporting Is Only A Viable Alternative for CLECs**

The Commission seeks comment on whether voluntary reporting is a viable alternative to mandatory reporting.<sup>19</sup> For the reasons stated above, ALTS maintains that voluntary reporting should only apply to CLECs, and other non-price cap LECs. The Commission also seeks comment of whether service quality measures should take into account problems due to the conduct of the ILEC so that consumers would receive an accurate picture of the service quality provided by different carriers.<sup>20</sup> ALTS believes that, to the extent that information is not proprietary, and is validated, the Commission should require ILECs to state, in writing, that the ILEC was the cause of a CLEC end-user problem. Similar to what financial institutions provide to its customers when the bank is at fault, the ILEC should provide a similar letter of acknowledgment of fault to the CLEC.

In the financial industry, when the bank makes a mistake that affects the customer's reputation or business relationship with other entities the bank acknowledges in a letter that the bank was at fault. By taking responsibility publicly for its actions, the bank has every incentive not to make similar mistakes in the future or risk losing its customer. ILECs should have similar incentives. By publicly taking responsibility for bad behavior the ILEC shows to the public and the regulators that it is serious about opening its local markets. The ILEC also has the incentive to show good will in the community and thus such actions may allow the ILEC to retain customers where an alternative is available.

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<sup>19</sup> *NPRM* at ¶ 30.

### **III. FREQUENCY OF REPORTING**

The current ARMIS data is collected on an annual basis.<sup>21</sup> The Commission seeks comment on whether the amount of reduced data requirements is balanced by the burden or more frequent reporting. ALTS is unsure if the Commission seeks to require more frequent (e.g., quarterly) requirements only if the amount of data is reduced, or, if the Commission will seek more frequent reporting regardless of the amount of data collected.

If the Commission's goal is to ensure service quality to end user customers – especially in an evolving market – the Commission should collect data on a quarterly basis in order to “fix” any issues revealed by the data. ALTS believes that the Commission should keep the existing levels of data collected, collect additional data on advanced services, and increase the frequency of the reporting to quarterly. The burden still lies with the ILEC to prove that it should not be subject to regulation and no ILECs have proven they meet this standard. Until then, the Commission should take whatever steps necessary to ensure that the market is open and that customers have a choice. More frequent reporting will lead to that end and the burden should rest with ILEC to prove that end. Moreover, where the ILEC and CLEC are in unequal status with respect to local market share, the CLEC should not be subject to equal requirements except on a voluntary basis.

### **CONCLUSION**

For the reasons stated above, ALTS urges the Commission to keep the same reporting structure for ILECs. In addition, ALTS believes that the Commission should

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<sup>20</sup> *Id.* at ¶ 32.

require ILECs to report on service quality issues for advanced services. Although ALTS supports in principle what the Commission and NARUC seek to accomplish by requiring service quality reports, ALTS believes that it is premature to require CLECs to provide service quality data. ALTS submits that, at a maximum, CLECs could provide customer service quality reports on a voluntary basis. Finally, ALTS urges the Commission to require ILEC to make available for public inspection ILEC responsibility for issues leading to CLEC poor quality of service.

Respectfully submitted,

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January 8, 2000<sup>1</sup>

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<sup>21</sup> *Id.* at ¶ 33.